

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

METTEYYA BRAHMANA,  
Plaintiff,

v.

PHILLIP LEMBO, ET AL.,  
Defendants.

Case No.: C 09-00106 PSG

**ORDER DENYING REQUEST FOR  
APPOINTMENT OF COUNSEL**

(Re: Docket No. 313)

Plaintiff Metteyya Brahmana (“Brahmana”) has requested appointment of counsel. For the reasons discussed below, Brahmana’s request is DENIED.

In proceedings *in forma pauperis*, the district court “may request an attorney to represent any person unable to afford counsel.”<sup>1</sup> The decision to appoint such counsel is within “the sound discretion of the trial court and is granted only in exceptional circumstances.”<sup>2</sup> To determine whether exceptional circumstances exist, the court should evaluate two factors: (1) the likelihood of success on the merits of the case, and (2) the ability of the plaintiff to articulate his claims *pro se* in light of the complexity of legal issues involved.<sup>3</sup> “Neither of these factors is dispositive and both

<sup>1</sup> 28 U.S.C. § 1915(e)(1).

<sup>2</sup> *Franklin v. Murphy*, 745 F.2d 1221, 1236 (9th Cir. 1984).

<sup>3</sup> *See Agyeman v. Corrections Corp. of America*, 390 F.3d 1101, 1103 (9th Cir. 2004) (internal quotation omitted).

1 must be viewed together before reaching a decision.”<sup>4</sup>

2 In the present case, Brahmana’s wrongful termination claim and his false light claim have  
3 survived a summary judgement motion, demonstrating some likelihood of success. These claims,  
4 however, are not of a particularly complex nature, and Brahmana has demonstrated that he is capable  
5 of effectively presenting his own case. Thus, Brahmana has not demonstrated any exceptional  
6 circumstances that would warrant an appointment of counsel here. Accordingly,

7 IT IS HEREBY ORDERED THAT Brahmana’s request is DENIED.

8 Dated: July 19, 2011

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10 PAUL S. GREWAL  
11 United States Magistrate Judge  
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<sup>4</sup> *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986).

1 **Notice of this filing was automatically mailed to counsel via the court's Electronic Case Filing**  
2 **system.**

3 **A copy of this filing was mailed to:**

4 Metteyya Brahmana  
5 351 Turk St. # 717  
6 San Francisco, CA 94102

7 Dated: July 19, 2011

/s/ Chambers Staff  
Chambers of U.S. Magistrate Judge Paul S. Grewal